

REMARKS

Claims 1-21 are pending in this application.

The Examiner has required restriction of claims 1-21 under 35 U.S.C. § 121.

More specifically, the Examiner has required restriction to one of the following two groups described below:

Group I	Claims 1-7 and 16-21, drawn to a preservative and food containing, classified in classes 426, subclass 321.
Group II	Claims 8-15, drawn to a method of making a preservative, classified in class 426, subclass 321.

Applicants hereby elect, with traverse, the claims of Group I (claims 1-7 and 16-21). Applicants respectfully maintain that the claims of Groups I and II could be searched together without undue burden. Applicants note that the claims of Group II are directed to making preservatives such as those recited on Group I. Thus, any search for Group I would necessarily turn up any art related to Group II. Applicants also note that MPEP § 808.02 states that even if related inventions are shown to be distinct, the Examiner must also show serious burden “by appropriate explanation.” Therefore, applicants respectfully maintain that Groups I and II should be examined together.

Moreover, as a result of the GATT legislation limiting the term of a patent to twenty years from its effective filing date, the delay in the examination of the non-elected claims will likely result in the patent term for these claims being unnecessarily shortened.

Furthermore, it is likely that the same Examiner would be in charge of the divisional application; but since that divisional application will be examined at a much later date, the Examiner will have to conduct a duplicate, redundant search at the time she examines the divisional application. Alternatively, if a different Examiner is assigned to the divisional

application, a significant loss of PTO efficiency would be incurred as a result of the examination of that divisional case.

In view of the foregoing, withdrawal of the requirement for restriction is respectfully requested.

If a telephone interview would be of assistance in the prosecution of this application, the Examiner is invited to telephone Applicants' undersigned attorneys at his convenience at the number provided below.

No fees are believed due in connection with the filing of this Response to Restriction Requirement. However, the Director is hereby authorized to charge any required fees and credit any overpayments to Deposit Account No. 50-0540.

Respectfully submitted,

Dated: December 13, 2006

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